

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of the Joint Application of	)	
	)	
<b>TKC Holdings, Inc.</b> , Transferor	)	
	)	
<b>Inmate Calling Solutions, LLC d/b/a</b>	)	
<b>ICSolutions</b> , Licensee	)	
	)	WC Docket 18-193
and	)	
	)	ITC-T/C-20180612-00109
<b>Securus Technologies, Inc.</b> , Transferee	)	
	)	
For Grant of Authority Pursuant to Section 214	)	
of the Communications Act of 1934, as	)	
amended, and Sections 63.04 and 63.24 of the	)	
Commission's Rules to Transfer Ownership and	)	
Control of Inmate Calling Solutions, LLC d/b/a	)	
ICSolutions to Securus Technologies, Inc.	)	
	)	

**JOINT OPPOSITION TO PETITION TO DENY BY THE WRIGHT PETITIONERS,  
CITIZENS UNITED FOR REHABILITATION OF ERRANTS, PRISON POLICY  
INITIATIVE, HUMAN RIGHTS DEFENSE CENTER, THE CENTER FOR MEDIA  
JUSTICE, WORKING NARRATIVES, UNITED CHURCH OF CHRIST, OC INC., AND  
PUBLIC KNOWLEDGE**

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Dated: July 23, 2018

## **EXECUTIVE SUMMARY**

In their petition to deny (“Petition”), Petitioners make two arguments for denying or delaying the captioned Joint Application. First, they resurrect old allegations that Securus Technologies, Inc. (“STI”) violated Federal Communications Commission (“FCC” or “Commission”) rules, policies, and procedures. As a result, Petitioners argue, STI lacks the character required to hold an FCC license. Second, Petitioners assert, supported by scant evidence, that granting the Joint Application inevitably will have negative effects on competition in the market for inmate telephone services (“ITS”).

Neither argument provides a basis for denying or delaying the Joint Application. For all the reasons herein, the FCC should promptly dismiss and/or deny the Petition and grant the Joint Application.

The character arguments rehash the same assertions raised by many of the same Petitioners when they unsuccessfully sought to deny the transfer of control of STI to ABRY Partners in 2013 and the subsequent transfer to Platinum Equity, LLC (“Platinum”) in 2017. In both cases, the Commission considered these arguments, concluded that STI retained the qualifications to hold an FCC license, and approved the transactions.

More specifically, Petitioners contend that “Securus has demonstrated a pattern of abusing Commission rules, policies and procedures.” Petitioners rely on (1) a commitment letter with Millicorp d/b/a ConsCallHome (“Millicorp”) signed in connection the 2013 transaction with ABRY Partners; (2) a letter from the Wireline Competition Bureau relating to the *2015 ITS Order*; (3) allegations of impermissible filings in connection with the ITS rulemaking proceeding; (4) the 2017 consent decree in connection with the Platinum transaction; and (5) allegations of “further unlawful activity” involving STI’s former location-based services (“LBS”). In the first case, the

Commission asserted no rule violations. Petitioners raised the allegations in the second and third cases in the 2017 Platinum transaction and the Commission found them insufficient to show that STI was unqualified to hold FCC licenses. The Commission did not find cause to deny the transfer of control to Platinum based on the behavior covered by the 2017 consent decree, and Petitioners offer no reason why a different result should be reached now. Lastly, Petitioners raised allegations based on STI's LBS in 2017 and the Commission decided that the allegations were inadequate to raise a character issue for purposes of that transaction. Although Petitioners purport to have new evidence on this issue, they admit that the new evidence (which in any event is erroneous) goes to the same alleged misconduct they raised in 2017. Furthermore, the LBS allegations are based on a fundamental misunderstanding of critical underlying facts and ignore that the service has now been suspended.

Repetitious assertions of claims that have previously been rejected by the Commission are evidently made solely for the purpose of delaying the Transaction. As such, they constitute an abuse of process and should be rejected out of hand.

Petitioners' assertion that the Transaction raises competitive concerns contrary to the public interest is factually and legally flawed and relies on three faulty and misleading factual claims.

First, they allege that the transaction will lead to a "duopoly" and "will eliminate the only remaining viable competitor in the provision of I[T]S to large prison and jail systems." But, in fact, many incumbent competitors besides Global Tel\*Link Corporation ("GTL") and STI can and do provide ITS to larger correctional facilities today, including CenturyLink, Inc. ("CenturyLink") (which is an independent competitor) and several other rivals. There are no meaningful barriers hindering any of these rivals from bidding on and winning more ITS business for correctional facilities of all sizes.

Second, Petitioners allege that the “ICS market,” which they never define or measure correctly, will become over concentrated, relying upon market shares set forth in a report prepared by the Prison Policy Institute (“PPI”) and a blog cited in the report. PPI’s “methodologies” used to calculate these market shares are flawed, and the “results” of the analyses identified by PPI are unreliable and misleading. In any event, historical market shares of the parties in a contestable bidding market are not a relevant or reliable predictor of future competitive outcomes.

Third, Petitioners’ allegations are without a single assertion of fact as to how the Transaction could plausibly reduce competition. Given the many strong incumbent rivals for ITS and the ease with which these rivals can expand to capture new ITS business for correctional institutions of all sizes, Petitioners’ failure is no surprise.

In light of the foregoing, the Petition should be promptly dismissed or denied and the Commission should find that the Transaction is in the public interest and grant the Joint Application.

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JUSTICE, WORKING NARRATIVES, UNITED CHURCH OF CHRIST, OC INC., AND  
PUBLIC KNOWLEDGE**

TKC Holdings, Inc. (“TKC”), Inmate Calling Solutions, LLC d/b/a ICSolutions (“ICS”), and Securus Technologies, Inc. (“STI,” and collectively, with TKC and ICS, “Applicants”), acting through counsel and in accordance with the Commission’s Public Notice,<sup>1</sup> hereby oppose the Petition To Deny by The Wright Petitioners, Citizens United for Rehabilitation of Errants, Prison Policy Initiative, Human Rights Defense Center, The Center for Media Justice, Working Narratives, The United Church of Christ, OC Inc., and Public Knowledge (collectively,

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<sup>1</sup> *Application Filed for the Transfer of Control of Inmate Calling Solutions, LLC d/b/a ICsolutions to Securus Technologies, Inc.*, Public Notice, DA 18-684 (rel. Jul. 2, 2018) (“Public Notice”). This Opposition is timely filed in accordance with the Public Notice.

Petitioners”).<sup>2</sup> Applicants respectfully request that the Commission’s Wireline Competition Bureau (“WCB”) and International Bureau (“IB”) immediately dismiss or deny the Petition and grant the captioned Joint Application forthwith.

The Petition first attempts to justify denial of the Joint Application by alleging that STI lacks the character qualifications to hold a Commission authorization. Then, the Petition claims negative competitive impacts in the market for inmate telephone services (“ITS”) would ensue if the Joint Application were approved.

In the first case, Petitioners rely on repetitive, frivolous, and meritless character arguments, many of which members of Petitioners raised in connection with a transaction just last year.<sup>3</sup> The full Commission considered those arguments and then ruled that STI retained the requisite character qualifications and approved the transaction. In that light, these resurrected assertions, decorated with a few purportedly new citations, amount to nothing more than an impermissible attempt to prolong or indefinitely delay the transaction and the underlying Joint Application.

The fact is that the Wright group and their fellow Petitioners have long sought to influence Commission policies and rules relating to the ITS industry, including rates and operating policies, and have turned to using transactional filings as a vehicle for attaining those goals. Indeed, in 2013, two of the current Petitioners joined to seek to delay approval of an earlier STI transaction in an attempt to obtain FCC action on ITS rates.<sup>4</sup> The Commission rejected the effort, noting that

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<sup>2</sup> *Petition to Deny by The Wright Petitioners, Citizens United for Rehabilitation of Errants, Prison Policy Initiative, Human Rights Defense Center, The Center for Media Justice, Working Narratives, United Church of Christ, OC Inc., and Public Knowledge*, WC Docket No. 18-193; ITC-T/C-20180612-00109 (filed Jul. 16, 2018) (“Petition”).

<sup>3</sup> All but one of the Petitioners (Free Press) were part of the group that opposed that transaction.

<sup>4</sup> *Applications Granted for the Transfer of Control of the Operating Subsidiaries of Securus Technologies Holdings, Inc. to Securus Investment Holdings, LLC*, Public Notice, WC Docket No. 13-79, DA 13-961, 28 FCC Rcd 5720, 5723 (rel. Apr. 29, 2013) (“2013 Public Notice”).

there was a pending rulemaking. Having had mixed success in that forum, Petitioners seek here to delay the transaction in part on grounds already addressed. This tactic only further contributes to the frivolous nature of the filing.<sup>5</sup>

In the second case, Petitioners claim, supported primarily by a single bid sheet for a single contract, that the combination will leave only two competitors for large correctional facility contracts. Yet the very example they rely upon included seven (7) bidders at the start. Petitioners apparently blithely assume that four (4) did not make the final round solely because of their size. This is not a credible foundation for Petitioners' competition-related argument, which is not supported by any other concrete data. Marketplace realities reflect that there are ample competitors to bid on and win contracts that ICS might seek.

Thus, taken together, Petitioners' arguments fail to provide any substantive basis for denying or otherwise delaying the Joint Application. The Petition should be denied.

## **I. BACKGROUND – THE TRANSACTION**

On June 12, 2018, the Applicants requested approval of the transfer of control of ICS's domestic and international Section 214 authority through a transaction involving TKC and Keefe

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<sup>5</sup> Frivolous pleadings can include those that are “based on arguments that have been specifically rejected by the Commission.” *See Implementation of Cable Television Consumer Protection Act*, Second Report and Order, MM Docket No. 92-265, FCC 93-457, 9 FCC Rcd 2642, 2657 (rel. Oct. 22, 1993); *see also Commission Taking Tough Measures Against Frivolous Pleadings*, Public Notice, 11 FCC Rcd 3030 (rel. Feb. 6, 1996) (“A pleading may be deemed frivolous under 47 C.F.R. § 1.52 if there is no ‘good ground to support it’ or it is ‘interposed for delay.’”); *Applications of White Park B’estg., Inc.*, Memorandum Opinion and Order, 24 FCC Rcd 3549, 3569 ¶ 31 (Media Bur. 2009) (“The crucial consideration in determining whether any pleading is in the nature of a strike petition is whether it was filed for the primary purpose of delay. In making such a determination, the Commission considers a number of factors, including the absence of any reasonable basis for the allegations raised in the pleadings.”).

Group, LLC (“Transaction”).<sup>6</sup> As a result of the Transaction, ICS would become a wholly-owned subsidiary of STI.

As reflected in the Joint Application, the consummation of the Transaction will not result in an interruption, reduction, loss, impairment, or disruption of any services currently provided by ICS. The Transaction does not involve a transfer of ICS’s operating authority, assets or customers.

Moreover, the existing ICS management team will remain substantially the same and ICS’s corporate identity, name and operations will remain in place. Post-closing, ICS will remain operational as a separate business from STI and its parent entities. ICS will continue to honor its correctional facility contracts and in doing so will continue to provide and support the technologies and services enjoyed by its customers.

Any future changes in the rates, terms and conditions of service to ICS’s correctional facility and end-user customers will be undertaken in accordance with the applicable federal and state law, including notice and tariff requirements and ICS’s contractual obligations. As a result, the change in ownership will be entirely transparent to ICS’s correctional facility customers and the end-users of ICS’s services. Again, rates terms, and conditions of service, which are governed in part by contractual relationships between ICS and governmental agencies (as well as tariffs where required), will not change while such contracts remain in force.

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<sup>6</sup> *Joint Application of TKC Holdings, Inc., Transferor, Inmate Calling Solutions, LLC d/b/a ICSolutions, Licensee, and Securus Technologies, Inc., Transferee, For Grant of Authority Pursuant to Section 214 of the Communications Act of 1934, as amended, and Sections 63.04 and 63.24 of the Commission’s Rules to Transfer Ownership and Control of Inmate Calling Solutions, LLC d/b/a ICSolutions to Securus Technologies, Inc., WC Docket 18-193 (filed June 12, 2018), ITC-T/C-20180612-00109 (filed June 12, 2018) (“Joint Application”).*

Approval of the Transaction will not foreclose the opportunity for continued competitive bidding to provide ITS to facilities in various states in which STI and ICS operate. As the Commission and Petitioners know, there are many other ITS providers operating across the U.S.

Additionally, after closing, and where permitted by the governmental entities operating the correctional facilities serviced by ICS, inmates who use ICS's services will have access to the use of inmate tablets that provide controlled internet access, including, as part of that program, access to education (*e.g.*, the ability to obtain a GED), media content and job opportunities upon release. Inmate calling can also be permitted from such tablets, further facilitating the ability of inmates to connect with their friends and family. ICS's correctional facility customers also will gain access to STI-developed advanced technology, including an expanded set of law enforcement-related service and investigative technologies offered by STI.

Petitioners did not specifically address or substantively contest these representations.

## **II. BACKGROUND – THE PETITION**

The Petition is based on the following two arguments.

First, Petitioners assert that the Commission should deny the Joint Application because STI has “demonstrated a pattern of abusing Commission rules, policies, and procedures”<sup>7</sup> and that this “pattern” renders STI unfit to hold a Commission authorization.<sup>8</sup> In support of this argument the Petition recites the following alleged (but unadjudicated) violations of the Commission's rules, all of which were known to the Commission at the time it approved the Platinum transaction last year:

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<sup>7</sup> Petition at 11.

<sup>8</sup> *Id.* at 4-7; 11-14.

- a commitment letter STI executed with Millicorp d/b/a ConsCallHome (“Millicorp”) in connection the 2013 sale to ABRY Partners;<sup>9</sup>
- a letter in 2015 from the Wireline Competition Bureau relating to the *2015 ITS Order*;<sup>10</sup>
- allegations of impermissible filings in connection with the Commission’s ITS rulemaking proceeding;<sup>11</sup>
- the 2017 consent decree STI agreed to in connection with the Platinum transaction;<sup>12</sup> and
- allegations of “further unlawful activity” involving STI’s former Location-Based Services (“LBS”).<sup>13</sup>

Second, Petitioners assert that the Commission should deny the Joint Application because the proposed Transaction “will eliminate the only remaining viable competitor in the provision of [ITS] . . . to large prison and jail systems.”<sup>14</sup>

As clearly demonstrated below, neither of these theories warrants the denial or delay of Commission action to grant the Joint Application. The Petition should be denied.

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<sup>9</sup> *Id.* at 5.

<sup>10</sup> *Id.* at 13.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 4-5; 12-13

<sup>13</sup> *Id.* at 6-7.

<sup>14</sup> *Id.* at 9.

### **III. THE “CHARACTER” ARGUMENTS ARE REPETITIOUS, FRIVOLOUS, AND MERITLESS AND ARE A CLEAR ATTEMPT TO DELAY THE TRANSACTION**

Petitioners argue that the Commission should deny the Joint Application because it is not in the public interest or, in the alternative, “should hold the Application in abeyance until such time that it completes an inquiry of Securus’s qualifications to hold FCC licenses . . .”<sup>15</sup> Petitioners base the latter request for relief on a number of allegations that they claim demonstrate a “history of flagrant abuse of FCC policies and procedures” that call into question STI’s qualifications to hold or acquire Commission licenses.<sup>16</sup> As set forth below, the conduct underlying these “character arguments”—all of which has previously been addressed by the Commission—in no way warrants the draconian relief sought by Petitioners.

Furthermore, because the Commission has previously refused to find, based on the same arguments by many of the same Petitioners, that STI is unfit to hold or acquire Commission licenses, the resurrection of these claims yet again renders the Petition on this score frivolous, “interposed for delay”<sup>17</sup> and an abuse of FCC process.<sup>18</sup>

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<sup>15</sup> *Id.* at 2.

<sup>16</sup> *Id.* at 11.

<sup>17</sup> See *Commission Taking Tough Measures Against Frivolous Pleadings*, Public Notice, 11 FCC Rcd 3030 (rel. Feb. 9, 1996).

<sup>18</sup> See, e.g., *In re Applications of High Plains Wireless, L.P. for Authority to Construct and Operate Broadband PCS Systems on Frequency Blocks D and F*, Memorandum Opinion and Order on Reconsideration, File Nos. 00093-CW-L-97; 01319-CW-L-97, 15 FCC Rcd 4620 (rel. Mar. 2, 2000) (noting that “‘abuse of process’ has been defined as ‘the use of a Commission process, procedure or rule to achieve a result which that process, procedure or rule was not designed or intended to achieve or, alternatively, use of such process, procedure, or rule in a manner which subverts the underlying intended purpose of that process, procedure, or rule’”) (*citing In the Matter of Formulation of Policies and Rules Relating to Broadcast Renewal Applicants, Competing Applicants, and Other Participants to the Comparative Renewal Process and to the Prevention of Abuses of the Renewal Process*, First Report and Order, BC Docket No. 81-742, FCC 89-108, 4 FCC Rcd 4780 n.3 (rel. May 16, 1989)); see also *In the Matter of Warren C. Havens, Applications to Provide Automated Maritime Telecommunications System Stations at Various Locations in*

The Commission’s review of communications transactions is designed to determine whether a proposed transaction “will serve the public interest, convenience and necessity.”<sup>19</sup> The process is not designed to entertain frivolous and repetitive pleadings, or to allow a given stakeholder to “gain some benefit by manipulating the Commission’s procedures.”<sup>20</sup> Petitioners, many of whom have participated in the Commission’s ITS rulemaking proceedings, evidently remain frustrated that they have been unable to achieve all their desired public policy goals through that process. As a result, Applicants submit that the character arguments are “simply a part of Petitioners’ broader campaign to change correction policies that they oppose” and to “use STI as a scapegoat for their grievances, real or perceived, against the procurement and other policies of correctional facilities.”<sup>21</sup> The Commission has long held that transaction proceedings are not the

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*Texas, and Applications to Provide Automated Maritime Telecommunications System Stations at Chaffee, Aspen, Colorado Springs, Copper Mountain, and Leadville, Colorado*, Third Order on Reconsideration, FCC 11-116, 26 FCC Rcd 10888, 10892, ¶ 11 (rel. Jul. 21, 2011) (sanctioning a Commission applicant for abuse of process for continuing to “press irrelevant and/or repetitious arguments, some of which [the Commission] . . . previously rejected”).

<sup>19</sup> See *In the Matter of Applications of Level 3 Communications, Inc. and CenturyLink, Inc. for Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, WC Docket No. 16-403, FCC 17-142, 32 FCC Rcd 9581, 9585, ¶ 8 (rel. Oct. 30, 2017) (“Level 3 Order”); accord *In the Matter of Applications Filed for the Transfer of Control of tw telecom inc. to Level 3 Communications, Inc.*, Memorandum Opinion and Order, WC Docket No. 14-104, DA 14-1543, 29 FCC Rcd 12842, 12844, ¶ 8 (rel. Oct. 24, 2014); *In the Matter of Applications filed by Qwest Communications International Inc. and CenturyTel, Inc. d/b/a CenturyLink for Consent to Transfer Control*, Memorandum Opinion and Order, WC Docket No. 10-110, FCC 11-47, 26 FCC Rcd 4194, 4198-99, ¶ 7 (rel. Mar. 18, 2011); *In the Matter of AT&T Inc. and BellSouth Corporation Application for Transfer of Control*, Memorandum Opinion and Order, WC Docket No. 06-74, FCC 06-189, 22 FCC Rcd 5662, 5671-72, ¶ 19 (rel. Mar. 26, 2007).

<sup>20</sup> See *In re Application of TRMR, Inc. for Construction Permit for a New FM Station on Channel 230C2 at Ephrata, Washington; Application for Review; Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (East Wenatchee, Ephrata, Chelan, Moses Lake and Cle Elum Washington)*, Memorandum Opinion and Order, MM Docket No. 93-221; RM 8265; FCC 96-165, 11 FCC Rcd 17081, 17087, ¶ 10 (rel. May 16, 1996).

<sup>21</sup> See *Opposition to Petition to Deny By The Wright Petitioners, Citizens United for Rehabilitation of Errants. Prison Policy Initiative, Human Rights Defense Center, The Center for Media Justice,*

proper forum to resolve industrywide policy issues.<sup>22</sup>

**A. Neither The April 26, 2013 Millicorp Commitment Letter Nor The Subsequent Approval Of STI's Sale To ABRY Partners Reflect A Finding By The Commission That STI Violated A Commission Rule**

As part of its rehash of prior transactions, Petitioners go back five years and note that in connection with 2013 transfer of control of STI to ABRY Partners, “Securus was forced to enter in a Commitment Letter with Millicorp d/b/a ConsCallHome, which had alleged that STI was blocking legitimate ITS calls for no other reason than to preserve its monopoly control at correctional facilities.”<sup>23</sup> Petitioners characterize this Commitment Letter as one instance in which STI's fitness to hold a Commission license has been questioned.<sup>24</sup>

In the negotiated Commitment Letter, STI agreed to “cease and desist any and all blocking of inmate-initiated calls to Millicorp Numbers except to the extent permitted under the procedures set forth in the Attachment.”<sup>25</sup> In exchange, Millicorp agreed to, among other things, “notify the

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*Working Narratives, United Church of Christ, OC Inc., and Free Press*, WC Docket No. 17-126; ITC-T/C-20170511-00094; ITC-T/C-20170511-00095 (filed June 26, 2017 – in response to a petition by many of the same Petitioners to transfer of control of STI to Platinum Equity, LLC) (“2017 Opposition”).

<sup>22</sup> See *In the Matter of General Motors Corporation and Hughes Electronics Corporation, Transferors, and The News Corporation Limited, Transferee, for Authority to Transfer Control*, Memorandum Opinion and Order, MB Docket 03-123, FCC 03-330, 19 FCC Rcd 473, 534, ¶ 131 (rel. Jan 14, 2004) (“An application for a transfer of control of Commission licenses is not an opportunity to correct any and all perceived imbalances in the industry. Those issues are best left to broader industry-wide proceedings.”); *In the Matter of Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations from Southern New England Telecommunications Corporation to SBC Communications, Inc.*, Memorandum Opinion and Order, CC Docket No. 98-25, FCC 98-276, 13 FCC Rcd 21292, 21306, ¶ 29 (rel. Oct. 23, 1998).

<sup>23</sup> Petition at 5.

<sup>24</sup> *Id.*

<sup>25</sup> See *Letter from Dennis J. Reinhold, Vice President, General Counsel and Secretary, Securus Technologies, Inc. to Julie Veach, Chief, Wireline Competition Bureau, Federal Communications Commission*, WC Docket No. 13-79 (dated Apr. 26 2013) (“Commitment Letter”).

Commission that it has no objection to the Commission's grant of the . . . Transfer of Control Application and related international transfer of control application."<sup>26</sup> Nowhere does the Commitment Letter suggest that the FCC believed that STI had violated any Commission rule. The Commission never charged Securus with violating any rule, much less reached a final decision to that effect. Nor did STI concede that it had done so. The mere fact that Millicorp alleged that STI was improperly blocking calls does not "make it so." It is not unusual for parties to a transaction to accept commitments that go beyond the minimum requirements of compliance with the law, to demonstrate that approval of their transaction would have positive public benefits. The acceptance of such a condition in no way implies that, absent the condition, the party would be violating a law or rule.

Furthermore, the Commission did not allege or find any violation of the Commission's rules as a result of the allegations underlying the Commitment Letter. In approving the ABRY Partners transaction, the Commission accepted the Commitment Letter and "ma[d]e it a binding and enforceable condition" on approval of the transaction.<sup>27</sup> The Commission declined to take the position that the Commitment Letter somehow rendered STI unqualified to hold a Commission license. To the contrary, the Commission affirmatively found that "Securus is qualified to hold an authorization."<sup>28</sup> So Petitioners' attempted reliance on this instance on its face makes no sense.

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<sup>26</sup> *Id.* at 2.

<sup>27</sup> 2013 Public Notice, 28 FCC Rcd at 5723.

<sup>28</sup> *Id.* at 5724.

**B. Petitioners’ Allegations Concerning The DelNero Letter And Certain Impermissible Filings Were Previously Disposed Of By The Commission In Connection With STI’s 2017 Sale To Platinum Equity, LLC**

Next, Petitioners point to two instances that they claim are evidence of “public rebukes” by the Commission that demonstrate “continued and repeated willful misconduct” by STI.<sup>29</sup> Specifically, they cite to the 2015 DelNero Letter and certain filings that were rejected on procedural grounds.<sup>30</sup> As argued in the Petition, these claims are direct, nearly verbatim recitations of the allegations made in the 2017 petition to deny by many of the same Petitioners.<sup>31</sup> STI previously responded to these allegations in its 2017 Opposition.<sup>32</sup> STI hereby incorporates those responses here. More importantly, the Commission previously concluded that neither of these instances was sufficient to allow the Commission to conclude that STI lacked the qualifications to hold a Commission license.<sup>33</sup>

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<sup>29</sup> Petition at 13.

<sup>30</sup> See *Letter from Matthew S. DelNero, Chief, Wireline Competition Bureau, Federal Communications Commission, to Robert Pickens, President, Securus Technologies, Inc.*, WC Docket No. 12-375, DA 15-1382, 30 FCC Rcd 13666 (dated Dec. 3, 2015) (“DelNero Letter”); Petition at 13.

<sup>31</sup> Compare *Petition to Deny by The Wright Petitioners, Citizens United For Rehabilitation of Errants, Prison Policy Initiative, Human Rights Defense Center, The Center for Media Justice, Working Narratives, United Church of Christ, OC Inc., and Free Press*, WC Docket No. 17-126; ITC-T/C-20170511-00094; ITC-T/C-20170511-00095, at 12-13 (dated Jun. 16, 2017) (“2017 Petition to Deny”), with Petition at 13.

<sup>32</sup> 2017 Opposition at 16-18.

<sup>33</sup> *In the Matter of Joint Application of Securus Investment Holdings, LLC, Securus Technologies, Inc., T-NETIX, Inc., T-NETIX Telecommunications Services, Inc. and SCRS Acquisition Corporation for Grant of Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended, and Sections 63.04 and 63.24 of the Commission’s Rules to Transfer Indirect Ownership and Control of Licensees*, Memorandum Opinion and Order, WC Docket No. 17-126, FCC 17-141, 32 FCC Rcd 9564, 9574, ¶ 25 (rel. Oct. 30, 2017) (“2017 Order”).

**C. The Circumstances Underlying the 2017 Consent Decree Were Known To The Commission At The Time of the 2017 Order And The Commission Did Not Find Cause To Deny The Transfer Of Control At that Time**

Petitioners place great emphasis on the 2017 Consent Decree entered into in connection with the 2017 Order granting the transfer of control of STI to Platinum Equity, LLC.<sup>34</sup> They tout the civil penalty paid by STI as evidence of the “severity of its transgressions” that demonstrates that STI lacks the character to hold FCC licenses.<sup>35</sup>

Petitioners’ emphasis on the 2017 Consent Decree is wholly misplaced. The Consent Decree specifically provides that it “does not constitute and shall not be construed as either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with” the Communications Act of 1934, as amended (“Act”) or Commission rules, and “does not constitute an admission of liability by” STI.<sup>36</sup> Moreover, Petitioners cannot properly seek to litigate those factual or legal issues in this proceeding, because the 2017 Order recited in detail the facts and circumstances that led up to the Consent Decree.<sup>37</sup> The full Commission evaluated those facts and decided that the conduct underlying the 2017 Consent Decree did not “raise substantial and material questions of fact concerning the basic qualifications of Securus so as to bar approval of this proposed transfer of control of its authorizations.”<sup>38</sup> STI has fully complied with the terms of the Consent Decree, and Petitioners do not claim otherwise. Thus, Petitioners’ argument that the 2017 Consent Decree is evidence that STI lacks the

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<sup>34</sup> See *In the Matter of Securus Technologies, Inc., et al.*, Order and Consent Decree, File No. EB-IHD-17-00025128, 32 FCC Rcd 9552 (rel. Oct. 30, 2017) (“2017 Consent Decree”).

<sup>35</sup> Petition at 11.

<sup>36</sup> 2017 Consent Decree ¶ 23.

<sup>37</sup> 2017 Order ¶ 23 (noting that “Securus has now agreed to enter into a consent decree to resolve the Enforcement Bureau’s investigation. . .”).

<sup>38</sup> *Id.* ¶ 24.

qualifications to hold a Commission license improperly asks the Bureaus to reopen a determination to the contrary made in a Commission-level order.

**D. Arguments Regarding STI's Location Based Services Were Raised In 2017 And Are Based on Fundamental Misunderstandings Of The Facts Of Such Services**

Lastly, Petitioners state that practices associated with LBS are evidence of “further unlawful activity” that compound other allegations raising questions about STI's qualifications.<sup>39</sup> As with Petitioners' other character arguments, the LBS issues are not new. They were raised by Petitioners last year<sup>40</sup> in connection with the Platinum transaction and responded to by STI.<sup>41</sup>

Petitioners attempt to dress up these prior allegations regarding LBS as something new and different by citing a letter from Senator Ron Wyden to the FCC and the ensuing press coverage. Ultimately they concede that this is nothing new, noting that the LBS issue was “brought to the FCC's attention last year, in connection with the [Platinum] acquisition of S[TI], but the FCC at that time elected not to investigate,”<sup>42</sup> finding that such allegations were more appropriately “handled in the context of an enforcement proceeding and not in that of a transaction.”<sup>43</sup> Thus, Petitioners' LBS arguments are another attempt to rehash old allegations that the Commission has previously decided are inadequate to warrant a finding against STI's qualifications.

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<sup>39</sup> Petition at 6-7; 13-14.

<sup>40</sup> See *The Wright Petitioners Notice of Ex Parte*, WC Docket No. 17-126; ITC-T/C-20170511-00094; ITC-T/C-20170511-00095 (filed Jul. 25, 2017).

<sup>41</sup> See *Securus Investment Holdings, LLC; Securus Technologies, Inc.; T-NETIX, Inc.; and T-NETIX Telecommunications Services, Inc. Notice of Ex Parte*, WC Docket No. 17-126; ITC-T/C-20170511-00094; ITC-T/C-20170511-00095 (filed Aug. 11, 2017).

<sup>42</sup> Petition at 7.

<sup>43</sup> 2017 Order ¶ 28.

In any event, Senator Wyden’s allegations regarding LBS and subsequent media reports covering those allegations were based on serious errors of fact. STI previously responded to these inaccuracies in a letter to Chairman Pai on May 10, 2018.<sup>44</sup> These factual inaccuracies, many of which are addressed in the LBS Letter, have infected the reporting and conversation around LBS more broadly. For example, Petitioners assert that STI obtains and makes available to law enforcement “real-time location tracking data.”<sup>45</sup> The LBS location information is not “real-time.” Instead, it provides “‘coarse’ approximate geographic location (based on cell tower data, not GPS) of a wireless phone in two contexts: [p]assive and on-demand.”<sup>46</sup> In the context of passive LBS “the data collected and displayed is only the wireless phone’s approximate location at the start and end of the call . . .”<sup>47</sup> The on-demand functionality “allows law enforcement personnel to obtain the same approximate non-GPS location data for a specified phone in near-real-time pursuant to lawful process and only after (a) uploading supporting legal documents and (b) certifying to Securus that the uploaded document authorizes the search.”<sup>48</sup> Neither the passive nor the on-demand functionalities allows continuous real-time tracking.

Further, the suggestion that STI did not adequately police the use of the LBS on-demand feature is also untrue. As explained in greater detail in the LBS Letter, the use of the LBS on-

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<sup>44</sup> See Letter from Andrew D. Lipman, Morgan, Lewis & Bockius LLP, to the Honorable Ajit Pai, Chairman, Federal Communications Commission, dated May 10, 2018 (“LBS Letter”). The LBS Letter is attached as **Exhibit A**.

<sup>45</sup> Petition at 6. (Emphasis added).

<sup>46</sup> LBS Letter at 1. (Emphasis in original). See *Carpenter v. United States*, No. 16-402, slip op. at 4 (Jun. 22, 2018) (Kennedy, J., dissenting) (noting that “location information revealed by cell-site records is imprecise”).

<sup>47</sup> LBS Letter at 1. (Emphasis in original).

<sup>48</sup> *Id.*

demand feature came with multiple safeguards including that (1) law enforcement personnel agree via contract to lawful use; (2) corrections facility customers specify which law enforcement personnel end-users have access; (3) end-users agree via the LBS User Acceptance policy to lawful use; and (4) each on-demand search must be supported by valid uploaded documentation such as warrants, subpoenas, exigent circumstances affidavits and must be supported by affirmative end-user certification that the uploaded supporting document provides authority to conduct the search.<sup>49</sup> Any allegation that STI was somehow overly permissive in its monitoring of on-demand LBS is simply untrue as evidenced by the many safeguards in place that were meant to ensure lawful use of the product.

In addition to not engaging with the substantive, public responses STI has provided with respect to the LBS, Petitioners ultimately fail to recognize the critical fact that the service has now been suspended as a result of the wireless carriers' decision to stop sharing location data with third-party brokers.<sup>50</sup> The fact that LBS no longer exists at this time undercuts Petitioners' argument that issues associated with LBS constitute "further unlawful activity" by STI.

#### **IV. PETITIONERS' ASSERTION THAT THE TRANSACTION RAISES COMPETITIVE CONCERNS CONTRARY TO THE PUBLIC INTEREST IS FACTUALLY AND LEGALLY FLAWED**

Petitioners' claim that the Transaction "raises competitive concerns"<sup>51</sup> and will result in certain unspecified "potential harms to inmates and their loved ones"<sup>52</sup> in the "nationwide ICS

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<sup>49</sup> *See id.* at 1-2.

<sup>50</sup> *See, e.g.,* Harper Neidig, *AT&T, Verizon say they'll stop sharing location data with third-party brokers*, The Hill, Jun. 19, 2018, available at <http://thehill.com/business-a-lobbying/393058-att-verizon-say-theyll-no-longer-share-location-data-with-third-party>.

<sup>51</sup> Petition at 9.

<sup>52</sup> *Id.* at 11.

market”<sup>53</sup> (which for purposes of this Opposition we assume covers some or all ITS) is legally flawed and relies upon three faulty and misleading assertions of fact. First, Petitioners allege that the Transaction will lead to a “duopoly,” and “will eliminate the only remaining viable competitor in the provision of I[T]S to large prison and jail systems.”<sup>54</sup> This is false. Today, many incumbent competitors *besides* GTL and STI can—and do—provide ITS to larger correctional facilities, including CenturyLink (which is an independent competitor) and several other rivals identified below. The PPI, which Petitioners cite to throughout their Petition, has identified at least 16 companies that provide ITS to correctional facilities;<sup>55</sup> STI is aware of at least 40 ITS providers. And there are no meaningful barriers hindering any of these rivals from bidding on and winning more ITS business for correctional facilities of all sizes.<sup>56</sup> Second, Petitioners allege that the “ICS market,” which they never define or measure correctly, will become overly concentrated.<sup>57</sup> Petitioners allege that STI and GTL have an 83% share (based on total revenue) and, although unclear, appear to allege that STI and GTL have a 73.5% share (based on a facility’s average daily

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<sup>53</sup> *Id.* at 9.

<sup>54</sup> *Id.* Even by Petitioners’ own account, it is undeniable that GTL remains a substantial competitor for ITS, and therefore *the only remaining* viable competitor is not being eliminated because GTL will remain a vigorous competitor. In addition, Petitioners never explain what constitutes a “large prison and jail system.” *Id.* (emphasis added).

<sup>55</sup> Prison Policy Initiative, Industry Financials, <https://www.prisonpolicy.org/phones/financials/> (last visited Jul. 23, 2018).

<sup>56</sup> See *United States v. Baker Hughes*, 908 F.2d 981, 987-88 (D.C. Cir. 1990) (“If barriers to entry are insignificant, the *threat* of entry can stimulate competition in a concentrated market, regardless of whether entry ever occurs.” (emphasis in original)). As the Petitioners themselves concede, the FCC’s competitive analysis review is “informed by . . . traditional antitrust principles.” Petition at 9 (citing 2017 Order ¶ 12 n. 36); see also Level 3 Order, *supra* note 19, ¶ 9.

<sup>57</sup> See Petition at 9-10; see also *United States v. Oracle Corp.*, 331 F. Supp. 2d 1098, 1123 (N.D. Cal. 2004) (“Defining the relevant market is critical in an antitrust case because the legality of the proposed merger [ ] in question almost always depends upon the market power of the parties involved.”) (quoting *FTC v. Cardinal Health*, 12 F. Supp. 2d 34, 45 (D.D.C. 1998)).

inmate population (“ADP”).<sup>58</sup> These claims rely upon market shares set forth in a report prepared by PPI and its blog<sup>59</sup> cited in the report. As described below, PPI’s “methodologies” used to calculate these market shares are flawed, and the “results” of such analyses identified by PPI are unreliable and misleading. In any event, historical market shares of the parties in a contestable bidding market are not a relevant predictor of future competitive outcomes; *i.e.*, even if such shares are properly calculated, they do not provide any reliable guidance as to how effectively the myriad competitors that can and do bid and win ITS business of all sizes today will constrain the parties to the Transaction post-closing.<sup>60</sup>

Finally, absent from Petitioners’ allegations is a single assertion of fact as to how the Transaction could plausibly reduce competition.<sup>61</sup> Given the strength of the many incumbent rivals for ITS and the ease with which these rivals can expand to capture new ITS business for correctional institutions of all sizes, Petitioners’ failure is no surprise.

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<sup>58</sup> Petition at 10. As described below, it is unclear whether the Petitioners are identifying the total market share of STI and GTL; the total market share of STI, GTL, ICS and CenturyLink; or whether this is a miscalculation.

<sup>59</sup> See Petition at Exhibit A. The report is hereinafter cited as the “PPI Report;” *see also* Peter Wagner, Prison phone giant GTL gets bigger, again, PPI Blog (August 28, 2018), <https://www.prisonpolicy.org/blog/2017/08/28/merger/>.

<sup>60</sup> See *Oracle Corp.*, 331 F. Supp. 2d at 1111 (stating that “determining the existence or threat of anticompetitive effects has not stopped at calculation of market shares.”); *see also* U.S. Dep’t of Justice & Fed. Trade Comm’n, Horizontal Merger Guidelines (2010), § 5.3, *available at* <https://www.justice.gov/atr/file/810276/download> (“2010 Horizontal Merger Guidelines”) (“Market shares may not fully reflect the competitive significance of firms in the market or the impact of a merger. They are used in conjunction with other evidence of competitive effects.”).

<sup>61</sup> See *United States v. AT&T Inc.*, 2018 WL 2930849, at 23 (D.D.C. June 12, 2018) (“In assessing the Government’s Section 7 case, the court must engage in a ‘comprehensive inquiry’ into the ‘future competitive conditions in a given market.’”) (quoting *United States v. Aetna*, 240 F. Supp. 3d 1, 18 (D.D.C. 2017)); *see also United States v. General Dynamics Corp.*, 415 U.S. 486, 498 (1974) (“[O]nly . . . examination of the particular market—its structure, history and probable future—can provide the appropriate setting for judging the probable anticompetitive effect of the merger.”).

**A. Numerous Companies Can And Do Compete For The Provision Of ITS To Large Prison And Jail Systems**

Petitioners’ allegation that the Transaction will “eliminate the only remaining viable competitor [aside from GTL and STI] in the provision of I[T]S to large prison and jail systems”<sup>62</sup> is baseless. Indeed, ICS has only two small State Department of Corrections (“DOC”) contracts as primary contractor. The rest are serviced by CenturyLink, GTL, and Legacy Long Distance International, Inc. (“Legacy”), among others. Moreover, ICS rarely wins large county customers, having won only two counties with ADPs of over 2,000 since January 1, 2017.

Further, in addition to CenturyLink, GTL, ICS, Legacy and STI, other competitors including AmTel Inc. (“AmTel”), Unisys Inc. (“Unisys”), City-Tele-Coin (“City-Tel”), Network Communications International Corp. d/b/a NCIC (“NCIC”), Pay Tel Communications, Inc. (“Pay Tel”), Talton Communications, Inc. (“Talton”), Combined Public Communications (“CPC”), and Correct Solutions Group (“CSG”), all provide ITS to a number of large county (and other large) correctional facilities. Indeed, one of the largest correctional facility contracts in the U.S.—the Immigration and Customs Enforcement (“ICE”) contract, which services about 20,000 prisoners nationwide—was won by Talton, and the contract to provide ITS to the largest U.S. government correctional facility system, the Federal Bureau of Prisons (about 210,000 prisoners nationwide), was won by Unisys. In fact, at the time Unisys won this 2014 bid, it also provided ITS services to the New York DOC (over 50,000 ADP). The below table is a non-exhaustive sample set of ITS providers—other than STI and ICS—that recently won contracts to serve larger prison facilities with *over* 1,000 ADPs.

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<sup>62</sup> Petition at 9.

**Table I: ITS competitors and recent won opportunities (non-exhaustive list):**

Century Link	GTL	Legacy	Pay Tel	Others
- AZ DOC (2017) - AL DOC (2017) - WI DOC (2017) - CC Crossroads, MT (2017)	-NC DOC (2017) -IN DOC (2017) -NH DOC (2017)	-Fresno County, CA (2017) -ME DOC (2017) -Bay County, FL (2018)	-Chatham County Sheriff's Dept., GA (2017) -Forsyth County, GA (2017) -Wake County Detention Facility, NC (2017)	- <b>Unisys</b> : Federal Bureau of Prisons (2017) - <b>Talton</b> : ICE (2016) - <b>CSG</b> - St. Louis City, MO (2015), Pulaski, AR (2016) - <b>NCIC</b> – Clayton County, GA (2017) - <b>City-Tel</b> Bossier Parish, LA (2017) - <b>AmTel</b> GEO Allen, LA (2016)

Source: STI and ICS’s business knowledge, including from public filings.

**B. No Barriers Hinder Competitors From Continuing To Win Larger Prison Facilities**

Regardless of the degree to which these competitors *currently* service larger facilities, there are no obstacles (technological, IP-related, reputational, or cost) preventing them from quickly scaling to bid and win opportunities of every size. Costs related to scaling (*i.e.*, installation costs) would be incurred only after the competitor won, could be easily paid for through operating revenues or outside financing, and any work associated with such scaling could be outsourced to a third party. Similarly, there is no “credibility threshold” as Petitioners allege<sup>63</sup> that creates a reputational barrier to entry and expansion; a customer’s lack of familiarity says nothing about the provider’s chances of winning or its constraining effect on other rivals. This is demonstrated by the fact that many companies that had little or no experience serving larger correctional facilities have won RFPs for facilities with large ADP sizes. By way of example only:

- Talton, which for years was a regional provider of ITS and served small prisons located mostly in Alabama, won the ICE contract, one of the largest in the U.S. with approximately 20,000 ADPs.

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<sup>63</sup> Petition at 10.

- NCIC, which typically focused on smaller county opportunities, recently won a large 1,000+ ADP customer (Clayton County, GA).
- Unisys won the Federal Bureau of Prisons with an ADP size of approximately 210,000 and previously provided ITS services to New York DOC (over 50,000 ADP).

**C. Evidence Cited By Petitioners Is Misleading And Unpersuasive**

Petitioners attempt to show that only STI, GTL and ICS meaningfully compete for larger correctional facilities by highlighting the outcome of a single RFP (Dallas County jail) from 2014.<sup>64</sup> Petitioners suggest that because Legacy and Unisys, two of seven competing bidders for the 2014 RFP, did not make it to the second round of bidding, they are not credible competitors for large correctional facilities in 2018.<sup>65</sup>

First, relying on a single RFP from more than three years ago as the sole basis for alleging a three firm market (GTL, STI, ICS) when there are *hundreds of RFPs every year* (including larger ones) is specious. Second, Legacy and Unisys each actually have won RFPs of a size similar to or greater than that of the Dallas County jail. Thus, the fact that neither advanced in Dallas is irrelevant to any competitive analysis. As noted, Unisys provides ITS to the *largest* prison system in the country, the Federal Bureau of Prisons (~210,000 ADP), and at the time of this 2014 bid for Dallas County it also provided ITS services to the New York DOC (over 50,000 ADP). Moreover, Legacy similarly provides ITS services to several large facilities, such as the Maine DOC, Fresno County, CA and Bay County, FL.

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<sup>64</sup> Petition at 10 and Exhibit A.

<sup>65</sup> *Id.* at 10 and Exhibit A.

**D. CenturyLink Is A Viable Competitor That Cannot Be Ignored**

Petitioners’ argument that “it is disingenuous to consider CenturyLink a credible competitor to [ICS]” because CenturyLink currently “subcontracts virtually all of its contracts to ICS and STI,”<sup>66</sup> is unfounded. When STI, ICS or any other entities act as subcontractors to CenturyLink, CenturyLink has complete control over every aspect of the bids, including which opportunities to bid on, and what rates and commissions to offer (beyond ensuring compliance with any federal and state rate regulations). Rather, as subcontractors, STI and ICS merely provide the ITS platform for use in a contract with the correctional facility that is serviced by CenturyLink, with terms of service and rates negotiated between CenturyLink and the facility. Consequently, CenturyLink’s presence in fact does constrain the prices charged by all other bidders. Furthermore, neither STI nor ICS has an exclusive relationship with CenturyLink: they can and do compete with CenturyLink for opportunities; CenturyLink can and does use other ITS providers as a subcontractor. For instance, CenturyLink has recently won opportunities with Legacy as its subcontractor. Post-transaction, CenturyLink can continue to partner with Legacy or—for that matter—with any other ITS provider, leaving CenturyLink’s role as a competitive force unchanged.

**E. Market Shares Identified By Petitioners Use Faulty Methodologies, Are Misleading, And/Or Are Not Relevant**

Petitioners rely on market shares contained in the PPI Report to show that the Transaction will lead to problematic market concentration. Yet these market share “analyses,” based on (a) revenues and (b) total ADP under the companies’ contracts, are flawed and not reliable. First, neither Petitioners nor PPI explains what actually constitutes the “ICS market” they describe—a

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<sup>66</sup> *Id.* at 10 n.20.

fatal flaw in any market share analysis.<sup>67</sup> Second, PPI knowingly leaves out the revenue and ADP counts of numerous rivals when calculating shares—*i.e.*, it uses denominators that are too small and incomplete.<sup>68</sup> Finally, and most importantly, PPI ignores the critical fact that share calculations in a bidding market provide no reliable insights into the effectiveness of rivals on future competition,<sup>69</sup> and future competition is what matters when analyzing the competitive effects of the Transaction.

### **1. Market Shares Based On Revenues Are Flawed And Unreliable**

With respect to market share calculations based on revenues, Petitioners state that “Securus and GTL already account for a combined 83% of the ICS market” with “ICSolutions comprising the next 11% (and no other company crossing a 3% threshold).”<sup>70</sup> PPI appears to have used the following methodology to calculate market shares based on revenues:

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<sup>67</sup> In *Oracle*, the court held that the DOJ failed to properly define a relevant market and stated that “[d]efining the relevant market is critical in an antitrust case because the legality of the proposed merger in question almost always depends upon the market power of the parties involved.” *Oracle Corp.*, 331 F. Supp. 2d at 1123 (quoting *Cardinal Health*, 12 F. Supp. 2d at 45.); *see also* *FTC v. HJ Heinz Co.*, 246 F.3d 708, 715 (D.C. Cir. 2001) (stating that the government first “must show” that there is a “relevant market” for antitrust purposes.).

<sup>68</sup> In *Oracle*, the court held that the DOJ did not meet their burden of establishing why certain market participants should be excluded from the relevant market, so it held that the court could not “apply the concentration methodology of the [Horizontal] Guidelines.” *Oracle Corp.*, 331 F. Supp. 2d. at 1161.

<sup>69</sup> *See AT&T Inc.*, 2018 WL 2930849, at 2 (D.D.C. June 12, 2018) (finding that Section 7 Clayton Act claims require a “comprehensive” inquiry into the “future competitive conditions in a” relevant market.); *see also* *FTC v. Arch Coal, Inc.*, 329 F. Supp. 2d 109, 116 (D.D.C. 2004) (“Hence, antitrust theory and speculation cannot trump facts”; the Government must make its case “on the basis of the record evidence relating to the market and its probable future.”); *General Dynamics Corp.*, 415 U.S. at 501 (noting that “[e]vidence of past production does not, as a matter of logic, necessarily give a proper picture of a company’s future ability to compete.”)

<sup>70</sup> Petition at 10.

- First, PPI created a non-exhaustive list of only six companies that “also do[] business in Alabama”: (1) ICS, (2) STI, (3) GTL, (4) NCIC, (5) Pay Tel and (6) Legacy.
- Next, PPI added the total revenues of only these six providers to calculate the total “ICS market” size (*i.e.*, the denominator).
- Finally, PPI divided each of these six companies’ total revenue by the total revenue of the six companies (*i.e.*, the purported “ICS market” size) to determine each company’s respective market share.

This methodology has clear flaws. First, PPI is aware that numerous additional companies provide ITS, making its estimated size of the “ICS Market” consequentially too small (and thus incorrectly inflating the market shares of the six companies it identifies).<sup>71</sup> In fact, PPI is not only aware of additional ITS competitors, it actually posts the financial statements for them on the very same webpage as it does for the six companies it cites to, and yet ignores them entirely in its “market share” computations.<sup>72</sup> It is disingenuous of Petitioners to arbitrarily include the revenues of only six ITS companies “that do[] business in Alabama” when the financial statements of *other* ITS competitors (including, for instance, of CenturyLink, which actually provides ITS to the Alabama DOC) appear on the same PPI webpage as those being included. Further, as we have demonstrated above, several of the companies whose financial statements appear on PPI’s website (next to those cited to in the market share “analysis”), including AmTel, City-Tel, and CenturyLink, can and do currently service larger correctional facilities.<sup>73</sup> By excluding these

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<sup>71</sup> See PPI Report at 2 n.3.

<sup>72</sup> See *supra* note 55.

<sup>73</sup> See PPI Report at 2 n.3. Each of these financial statements can be found on PPI’s blog.

additional competitors' revenues, the market shares of the six companies included in PPI's market share analysis were inflated substantially.

Second, each company's market share is based on its *total revenues*, which may include products that are not included within the undefined "ICS market" and may not even be competing with products actually offered by STI and ICS. For instance, STI offers non-ITS services, such as government payment systems, electronic health records ("EHR"), public safety products, ankle bracelet monitoring, jail management systems, contraband cell detection, among others, and the revenues of each was included in PPI's computation of STI's market share.<sup>74</sup> Furthermore, although it is not clear which products Petitioners believe constitute the "ICS market," none of these other services are offered by ICS and are thus irrelevant to the competitive analysis for the Transaction.

The absurdity of this methodology can be demonstrated by adding the total revenues (*i.e.*, total revenues regardless of products) of just two additional "ICS market" participants that were absent from Petitioners' "ICS market" calculations despite the fact that their financial statements are posted on PPI's blog alongside the six companies PPI cited: CPC (which in 2016 had approximately \$23 million of total revenue)<sup>75</sup> and CenturyLink (which in 2016 had \$17.4 billion of total revenue in 2017)<sup>76</sup>. Adding the total revenues of just these two providers would leave STI,

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<sup>74</sup>See Securus Technologies, Inc. Annual Financial Statements, *available at* [https://static.prisonpolicy.org/phones/financials/2016/securus\\_2016\\_financial\\_report.pdf](https://static.prisonpolicy.org/phones/financials/2016/securus_2016_financial_report.pdf).

<sup>75</sup> See Combined Public Communications, Ind. Financial Statements, *available at* [https://static.prisonpolicy.org/phones/financials/2016/combined\\_public\\_communications\\_inc.\\_al\\_2016\\_annual\\_financial\\_statements-inmate.pdf](https://static.prisonpolicy.org/phones/financials/2016/combined_public_communications_inc._al_2016_annual_financial_statements-inmate.pdf).

<sup>76</sup> See CenturyLink, United States Securities and Exchange Commission Form 10-K, *available at* [https://static.prisonpolicy.org/phones/financials/2016/10-k-2016-centurylink\\_inc-full\\_version-2.pdf](https://static.prisonpolicy.org/phones/financials/2016/10-k-2016-centurylink_inc-full_version-2.pdf).

GTL and ICS with an aggregated “market share” of less than 7.5%. Plainly, this methodology is unsound, misleading and unreliable.

Given these inherent flaws, the “ICS market” shares based on revenues set forth by Petitioners should be disregarded.

## **2. Petitioners’ Market Shares Based On ADP Size Are Inaccurately Calculated**

Petitioners’ analysis of market shares based on ADP sizes is perplexing. Based on ADP size, the PPI Report states that “Securus and GTL make up *at least* 73.5% of the market.”<sup>77</sup> The PPI Report itself does not indicate how it determined these market shares; instead, PPI states that its “analysis is explained in depth” in its blog.<sup>78</sup> The blog’s “in depth” explanation is as follows: “*Our research associate Alex Clark determined each company’s market share as of July 2017 and prepared this chart.*”<sup>79</sup> No sources are identified; no methodologies are explained.

Regardless of the methodology employed by Mr. Clark, it is unclear what the “73.5%” market share is referring to or how it was computed. The PPI Report, cited to by Petitioners, suggests that the “73.5% market share calculated for STI and GTL . . . incorporates our 2017 research on Telmate, CenturyLink and ICSolutions into the Securus and GTL numbers.”<sup>80</sup> Mr. Clark’s analysis, which the PPI Report cites to, appears to provide the following market share *ranges*:

<b>Company</b>	<b>Percent of market</b>	
GTL	46%	52.9%
Telmate	1.9%	3.1%

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<sup>77</sup> PPI Report at 1. (Emphasis in original).

<sup>78</sup> *Id.* at 2.

<sup>79</sup> Peter Wagner, Prison phone giant GTL gets bigger, again, PPI Blog (August 28, 2018), <https://www.prisonpolicy.org/blog/2017/08/28/merger/>.

<sup>80</sup> PPI Report at 2.

Securus (STI)	15%	19.4%
ICS	3.7%	6.3%
CenturyLink	10.6%	11.5%

(\*)<sup>81</sup>

Yet no combination of the lower or higher-range market shares identified by Mr. Clark for any two or more companies will lead to a market share of 73.5%, except for a combination of the lower-range market shares of GTL, Telmate, STI, and CenturyLink, an independent company. Putting aside that Petitioners state that STI and GTL *alone* have at least a 73.5% market share,<sup>82</sup> which is unsupported by PPI’s data, it does not make sense as to why the market shares of these four companies should be combined.

Nevertheless, for argument’s sake, (a) even if Mr. Clark’s market shares were accurate and used appropriate methodologies; (b) even if the undefined “ICS market” were appropriately defined; and (c) even if market shares based on ADP size were relevant to analyzing the competitive effects resulting from the Transaction, one would presumably start by analyzing the combined market shares of STI and ICS. And, relying on Mr. Clark’s shares (as did Petitioners), STI’s market shares would increase from 15%-19.4% to only 18.7%-25.7%. This is hardly a share increase that could plausibly affect competition.

### **3. Market Shares Identified By Petitioners Are Not Relevant Even If Accurate**

Again, Petitioners do not explain why the market shares they set forth are relevant, or how the purported increase in market share will harm the public. In a bidding market, even if properly

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<sup>81</sup> Peter Wagner, Prison phone giant GTL gets bigger, again, Table 1, PPI Blog (August 28, 2018), <https://www.prisonpolicy.org/blog/2017/08/28/merger/>.

<sup>82</sup> Petition at 10.

calculated, market shares do not provide any reliable predictor of how effectively the several other providers of ITS services today will constrain the parties to the Transaction post-closing.

**F. Petitioners Fail To Articulate Any Plausible Anti-Competitive Effect Caused By The Transaction**

Petitioners fail to articulate any plausible anti-competitive effect caused by the Transaction. Instead, they merely make a single wholly conclusory statement about STI engaging in “monopolistic abuses . . . such as [] call-blocking.”<sup>83</sup> They allege no fact or theory—not a single one—as to what harm will be caused by the Transaction. Combining competing firms alone violates no U.S. law absent an adverse effect on competition. Given the large number of incumbent ICS rivals, and the absence of any structural impediments to their continued success and easy expansion, there simply is no plausible theory of competitive harm here.

**G. The Transaction Will Benefit The Public**

While Petitioners seem to have gone through much effort to show that the post-transfer market will be more concentrated, they failed to identify any harm that could occur as a result of such concentration. By contrast, the Transaction will result in benefits to not only the applicants, but also the industry as a whole. ICS’s customers will benefit from gaining access to additional technology not currently available from ICS’s suite of services, such as job search assistance. ICS will benefit from being able to coordinate research and development with engineers at STI, which will spur innovation by reducing the capital required by both companies to develop new products and services. ICS and STI will both benefit from being able to streamline and optimize processes, such as sales efforts. These synergies will reduce costs and increase innovation. STI and ICS will offer even better products and services to customers and be more competitive, which will in turn

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<sup>83</sup> *Id.* at 11.

improve the industry. In the ITS industry, where one company succeeds, the others follow. So, when ICS and STI succeed at technology advancements and service efficiencies, all the market participants will work to become more efficient, as well as to improve their technology. In the absence of the Petitioners demonstrating any competitive harm, these benefits, along with others addressed in the Joint Application and above, establish that grant of the Joint Application is in the public interest.

**V. THERE SHOULD BE NO DELAY IN PROCESSING THE JOINT APPLICATION**

The Joint Application demonstrates that the Transaction complies with the Act and the Commission's rules. The proposed Transaction will be completely transparent to ICS's correctional facility customers and the end-users of its services. Any future changes in rates, terms and conditions of services to ICS's correctional facility and end-user customers will be undertaken in conformance with the applicable federal and state law, including notice and tariff requirements and ICS's contractual obligations. While the ownership of ICS will change, the management team will remain substantially the same and ICS's corporate identity, name and operations will remain in place. In addition, the Transaction will not adversely affect competition in the provision of ITS because there are incumbent competitors besides GTL and STI that can and do provide ITS to all sizes of correctional facilities today. And there are no meaningful barriers hindering any of these rivals from bidding and winning more ITS business for correctional facilities of all sizes.

The FCC has made it a policy to support the free market and reasonable business expectations.<sup>84</sup> The Commission has previously found that enhanced financial resources that

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<sup>84</sup> See, e.g., *Iridium Holdings LLC and Iridium Carrier Holdings LLC, Transferors and GHL Acquisition Corp., Transferee, Application for Consent to Transfer Control of Iridium Carrier Services LLC, Iridium Satellite LLC, and Iridium Constellation LLC*, Memorandum Opinion and

would ensure the long-term viability of a competitive service provider is a public interest benefit.<sup>85</sup> ICS will have access to substantial financial resources that will allow financing of continued service to ICS's customers and potentially enhance or expand its services. On balance, the Transaction is in the public interest. The Petitioners' assertions do not and should not tip that balance.

## **VI. CONCLUSION**

For all the forgoing reasons, the Petition should be found to be substantively without merit. It should be immediately dismissed or denied and the Joint Application should be expeditiously granted.

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Order and Declaratory Ruling, IB Docket No. 08-232 et al., DA 09-1809, 24 FCC Red 10725, 10734, ¶ 21 (rel. Aug. 14, 2009).

<sup>85</sup> See, e.g., *id.* at 10736 ¶ 26; see also *Application of WorldCom, Inc. and MCI Communications Corporation for Transfer of Control of MCI Communications Corporation to WorldCom, Inc.*, Memorandum Opinion and Order, CC Docket No. 97-211, FCC 98-225, 13 FCC Red 18025, 18030-31, ¶ 9 (rel. Sept. 14, 1998).

Respectfully submitted,

**TKC HOLDINGS, INC.;; INMATE CALLING SOLUTIONS, LLC D/B/A ICSOLUTIONS; AND SECURUS TECHNOLOGIES, INC.**

By: Howard M. Liberman  
by PCS

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*Counsel for Securus Technologies, Inc.*

Dated: July 23, 2018

**Exhibit A**

**Letter from Andrew D. Lipman to the Honorable Ajit Pai dated May 10, 2018**

# Morgan Lewis

**Andrew D. Lipman**

Partner  
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May 10, 2018

**VIA ELECTRONIC MAIL**

Hon. Ajit Pai  
Chairman  
Federal Communications Commission  
445 12th St. SW  
Washington, DC 20554

Re: Securus Technologies, Inc.

Dear Chairman Pai:

On behalf of Securus Technologies, Inc. ("Securus"), I am writing with regard to the letter dated May 8, 2018, addressed to you by Senator Ron Wyden, asking the Federal Communications Commission to investigate Securus with respect to its provision of location based services to law enforcement agencies. Regrettably, Senator Wyden's letter is factually inaccurate and materially misleading.

Securus is a leading provider of public safety software solutions to correctional agencies throughout the United States. One of those solutions is its Location Based Services application ("LBS"), which allows law enforcement personnel to obtain the "coarse" approximate geographic location (based on cell tower data, not GPS) of a wireless phone in two contexts: Passive and on-demand.

Passive location data is collected and displayed when an inmate at an LBS-enabled correctional facility calls a wireless phone using Securus' inmate calling services platform and only after the called party consents to the data's collection. The data collected and displayed is only the wireless phone's approximate location at the start and end of the call, not GPS data, and no phones or individuals are actively tracked. Law enforcement uses passive location data for, among other things, identifying potential escape attempts from corrections facilities and calling/location patterns suggestive of criminal activity.

LBS's on-demand functionality allows law enforcement personnel to obtain the same approximate, non-GPS location data for a specified phone in near-real-time pursuant to lawful process and only after (a) uploading supporting legal documents and (b) certifying to Securus that the uploaded document authorizes the search. When these steps are followed, LBS will provide the approximate geographic location of the subject wireless phone at a single point in time; no phones or individuals are actively tracked. Each on-demand search requires the same uploading and certification process described above.

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Senator Wyden's suggestion that Securus has somehow failed to sufficiently police the use of the LBS's on-demand feature is false for at least six reasons:

1. Securus generally requires its LBS customers to agree to specific contractual language certifying that, among other things, the service will only be used for lawful purposes;
2. LBS is available only to law enforcement and corrections users authorized by our corrections facility customers (*e.g.*, investigatory personnel), not all users;
3. Securus generally requires each authorized LBS user to agree that he or she will use LBS only for lawful purposes;
4. Securus trains its LBS law enforcement and corrections customers on the need to support on-demand searches with valid authorizing documentation;
5. Securus requires LBS users to support each on-demand search with supporting documentation; and
6. Securus requires LBS users performing an on-demand search to certify to Securus that the document they have uploaded is an official document giving them permission to look up the approximate location of the requested wireless telephone.

These verification requirements are entirely reasonable. Securus is entitled to, and does, reasonably rely on the professionalism and integrity of our law enforcement and corrections customers. Securus is neither a judge nor a district attorney, and the responsibility of ensuring the legal adequacy of supporting documentation uploaded to support an on-demand search lies with our law enforcement and corrections customers and their counsel. Indeed, Securus' requirements are very similar to the requirements imposed by the Commission that regulated entities certify to various facts as a condition of receiving certain benefits, subject to later audit, but without any independent confirmation of the facts by the Commission at the time of receiving the certification. *See, e.g.*, 47 C.F.R. §§ 54.313, 54.416. The requirements are also similar to Commission requirements for an operator of automatic dialing equipment to certify when it accesses the public safety answering point do-not-call registry, under penalty of law, that it is accessing the registry solely to prevent autodialed calls to numbers on the registry and to Commission requirements to obtain eligibility certifications from users of video relay service and IP captioned telephone service. *See, e.g.*, 47 C.F.R. §§ 64.1202(d), 64.111(a)(3), and 64.604(c)(9)(viii)(C).

Finally, the information provided by Securus to Sen. Wyden's office lists a number of LBS "success stories," which Sen. Wyden characterizes as demonstrating "activities wholly unrelated to correctional-facility telephone services." (A copy of this material is attached to this letter.) With all due respect, this misses the point entirely. Law enforcement personnel who manage correctional facilities remain law enforcement personnel, and are hardly prohibited from investigating or preventing crimes, or assisting their colleagues in doing likewise. And the "success stories" are exactly that: real-life examples from our law enforcement and corrections customers of how LBS provided tangible public safety benefits.

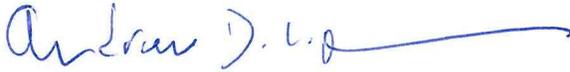
Companies in the telecommunications industry are frequently the recipients of search warrants, subpoenas, and other lawful process from law enforcement agencies. Federal law affirmatively requires telecommunications carriers to cooperate with such inquiries. *See* 47 U.S.C. §§ 1001 *et seq.*

Hon. Ajit Pai  
May 10, 2018  
Page 3

Yet Sen. Wyden says, "It is incredibly troubling that Securus provides location data to the government *at all*—let alone that it does so without a verified court order or other legal process." (Emphasis added.) This suggests that Sen. Wyden believes Securus should disregard the Communications Assistance for Law Enforcement Act and refuse to comply even with valid court orders and other forms of legal process, even though this could impede legitimate investigations and, in some cases, put victims' lives in jeopardy. Respectfully, Securus is aware of no legal or moral basis for Sen. Wyden's unexplained belief.

For the reasons outlined above, Securus believes that there is no substantive justification for an FCC investigation of the matters raised in Sen. Wyden's letter.

Sincerely,



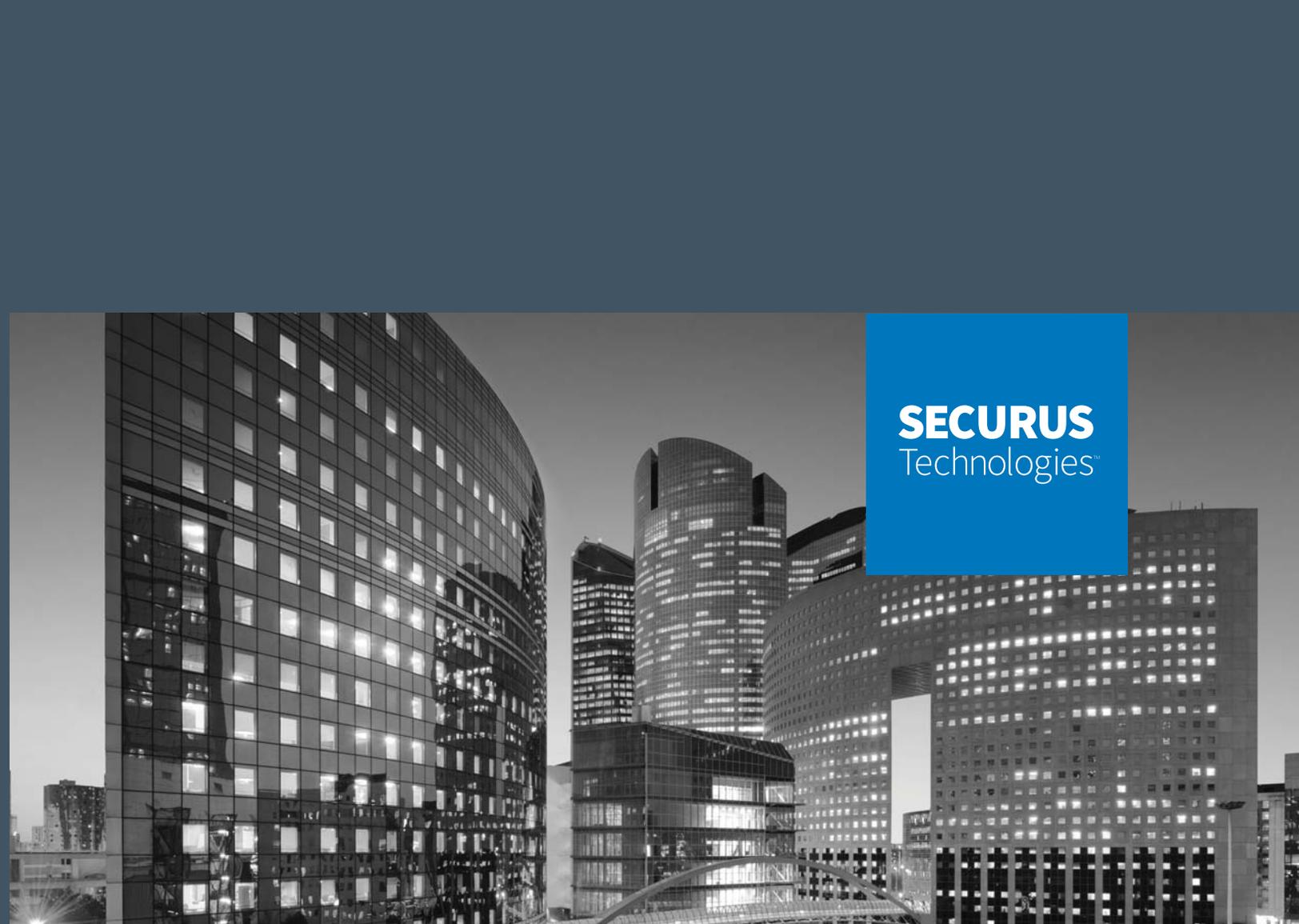
Andrew D. Lipman

cc: Honorable Ron Wyden  
Nick Degani  
Jay Schwarz

Reviewed and Approved:



Joshua Martin  
Assistant General Counsel and Chief Compliance Officer  
Securus Technologies, Inc.



**SECURUS**  
Technologies™

# Location Based Services (LBS)

Securus White Paper

February 21, 2018

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# OVERVIEW

Securus' Location Based Services (LBS) provides authorized law enforcement and correctional facilities with the ability to identify inmate calls that are dialing out to wireless phone numbers along with the call start location and end locations of the phone being dialed. Each time an inmate dials a cellular number, LBS provides audio prompts to both the inmate and called party stating that location information will be gathered during the call should they choose to accept it. Once the call connects, Securus' LBS sends a cellular carrier location request. When the request is submitted, the handset location is determined by the cellular tower that is providing service to the phone in question. Each cellular tower that provides cellular service distributes that coverage in a radial pattern that are broken down in to sectors.

## PROBLEM

Currently, over 80% of United States citizens are using a cellular phone as their primary form of communication. Therefore, the relevance of traditional billing name and address (BNA) collected through registered land line phone numbers no longer applies. Due to the shift to cellular phone communication, the ability to understand a called parties' location has become increasingly unclear. Now, thousands of inmate calls are generated each day without facilities having any idea where these called parties may be. Without having insight into location information, facilities are unable to identify or assist with planned contraband introduction, coordinated escape attempts, amber alerts, silver alerts and much more.

## SOLUTION

Through Securus' LBS service, facilities are provided with an enhanced layer of safety by simply being aware of where inmate calls are going out to. The legacy billing name and address data that was once applicable is now replaced with the delivery of latitude and longitude coordinates of cellular devices. LBS also allows facilities to identify and display cell phones geographically on a map, showing the called parties location at both the start and end of each call. This enables them to identify problem areas that may be associated with illegal activity such as the introduction of drugs and weapons into their facility. Investigators can also set Geo-fences around locations that are known for generating illegal activity, and are able to choose to be notified when calls are made out to that region. Investigators monitoring call traffic going out to specific numbers or Geo-fence locations can even choose to setup a covert alert in order to be notified precisely when specific call events take place. All LBS call data is owned by the facility being served, however facility data is retained by Securus for a period of time determined by the facility. Now, by leveraging LBS, facilities are significantly reducing the amount of time needed to identify investigative targets of opportunity as well as the identification of threats as it pertains to the security of the public, inmates, and facility staff.

# PRODUCT FEATURES

## LBS FEATURES

Geo Loc – Provides the approximate location at the of the cellular device being dialed at both the beginning and the end of the call

Geo Fence – The ability to place a “virtual net” over areas or regions in order to identify inmate call traffic going in to that area. Uses include:

- Identifying threats to public officials
- Halting contraband introduction within a facility
- Intercepting coordinated gang activity
- Halting witness intimidation

On Demand Search – Allows facilities to perform ad hoc searches using appropriate documentation in order to acquire location coordinates

# A CLEAR ADVANTAGE

Prior to the increase in cellular phone usage, billing name and address was considered to be an accurate method of identifying called party locations. As times have changed, the use of cellular devices has increased exponentially and therefore billing name and address is no longer an accepted form of physical location for those numbers dialed by inmates. Now we can identify those cellular numbers that are being called along with where they resided at the beginning and end of each inmate call.

## Before SECURUS LBS

Difficulty distinguishing between land line and cellular phones

Geographical connections between inmates and called parties unknown

Investigators listen to specific calls to identify whether enough information is provided to infer where the call may have come from

Investigators manually comb through all calls looking for tips as to where the called party resides

Any number being called does not provide any data relevant to criminal activity and does not indicate its location

Cellular call information provided to facilities by cellular carries only, requiring latency periods spanning up to weeks before information may be received

Amber Alert and Silver Alert locations remain unknown

## After SECURUS LBS

Able to leverage inmate call records to identify location of investigative interest

Geographical visibility of called parties

Investigators know when inmates are calling cell phones in high value geographical areas

Know when inmates are calling cell phones within a specific radius of your facility or any defined location

Investigators can be alerted when calls are made to specific numbers in areas associated with illegal activity

Information regarding the whereabouts of a cellular number being called is available with just a few key strokes and delivered back to facilities in real time

Location information for missing persons is quickly gathered and used for resolution

# BEST PRACTICES

All location information that Securus acquires through outgoing inmate calls adheres to the CTIA location-based services privacy guidelines. The CTIA privacy rules state the following:

The Guidelines primarily focus on the user whose location information is used or disclosed. It is the user whose privacy is most at risk if location information is misused or disclosed without authorization or knowledge. Because there are many potential participants who play some role in delivery of LBS to users (e.g., an application creator/provider, an aggregator of location information, a carrier providing network location information, etc.), the Guidelines adopt a user perspective to clearly identify which entity in the LBS value chain is obligated to comply with the Guidelines. Throughout the Guidelines, that entity is referred to as the LBS Provider. The Guidelines rely on two fundamental principles: user notice and consent.

1. LBS Providers must ensure that users receive meaningful notice about how location information will be used, disclosed and protected so that users can make informed decisions whether or not to use the LBS and thus will have control over their location information.
2. LBS Providers must ensure that users consent to the use or disclosure of location information, and LBS Providers bear the burden of demonstrating such consent. Users must have the right to revoke consent or terminate the LBS at any time. (Best Practices and Guidelines for Location Based Services, March 2010).

Each LBS deployment adheres to the strict access guidelines of each correctional facility. Employee access is assigned based strictly on an individual's level of access determined by the assigned officer in charge. Through this permission based access system, access to LBS services can be set to allow only select facility members permission to these services. All other facility members that are not assigned LBS access will be provided with all the same menu items, however they will not be presented with LBS service options.

<b>Securus User Notice</b>	<b>Securus User Consent</b>
During an inmate call, the called party is presented with two distinct audio prompts notifying the called party that conversation monitoring, and called-party location information will be collected upon the acceptance of the call.	The called party is presented with call prompts in order to accept or deny the call. By pressing one on the keypad, the called party can accept the call. Once accepted, the called party consents to the monitoring and location gathering of their call.

# LBS SUCCESS STORIES

FACILITY: [REDACTED]

## SITUATION

[REDACTED] Detectives were looking for a person of interest in a murder case. [REDACTED] [REDACTED] Detective Bureau obtained a search warrant to locate a subject who is wanted for questioning. The person of interest was believed to be in northern Colorado and/or Southern Wyoming.

## RESULTS

LBS was used to “ping” the cell phone of the person of interest. The cell phone was indeed showing in the area of [REDACTED], and just North of [REDACTED]. Due to the nature of the investigation, investigators in [REDACTED] reached out to Law Enforcement resources in [REDACTED] and [REDACTED] for assistance in locating the subject.

[REDACTED] Detective continued to “ping” the phone while relaying coordinates to officers in those areas. The detective reached out to Securus who used precise location information positioning to get the ground crew within 42 feet of the suspects location. Investigators were able to locate the subjects vehicle at a hospital in the [REDACTED] area and ultimately able to locate the subject and assist in our investigation.

**Quote:** “Without LBS-On Demand, the search team could have spent many costly man hours trying to locate the person of interest” said Det. [REDACTED]

# LBS SUCCESS STORIES

FACILITY: [REDACTED]

## SITUATION

[REDACTED] had a detainee sentenced to a drug rehabilitation center. She also had 5 years left on probation. This particular rehab was minimum security because of the short stays imposed by the judge, however, the detainee left facility.

The detainee started calling her father from the boyfriend's phone. The father in turn, who lives in [REDACTED] called and gave our department the number she used to make the calls. The father told us she's still using, and he was afraid someday he would receive a call saying his daughter was dead from an overdose.

## RESULTS

Using LBS, the phone was located in [REDACTED], which lead [REDACTED] officials to closely pin point the location of the detainee. With the assistance LBS, [REDACTED] was able to find the detainee and transport her back to the County without incident.

# LBS SUCCESS STORIES

FACILITY: [REDACTED]

## SITUATION

The [REDACTED] Department utilizes Location Based Services (LBS) to help solve active criminal investigations. This investigative tool has proven to be invaluable and was recently used by investigators to track down a suspect who had violated a protective order.

While out on a large cash bond, a suspect violated his conditions of bond and the protective order by continually harassing the victim. This harassment was escalating, and law enforcement was concerned about the safety of the victim. It was soon learned that the suspect had fled from the jurisdiction and could not be located.

## RESULTS

The department's investigators used the LBS investigative tool to ping the suspect's cell phone and were able to track the suspect down in [REDACTED], just west of [REDACTED].

The suspect was subsequently arrested by local authorities without incident and transferred back to the [REDACTED] Department jail. Suspect is now serving time in state prison.

# LBS SUCCESS STORIES

FACILITY: [REDACTED]

## SITUATION

[REDACTED] County was seeking help finding a senior citizen who suffers from Alzheimer's Disease. The senior citizen had left his home between 10 p.m. Tuesday and 7 a.m. Wednesday in the [REDACTED] subdivision, near Rosenberg, and was believed to be headed north.

[REDACTED] County issued a Silver Alert, which notifies the public about a missing person with Alzheimer's disease, dementia or other mental disabilities.

## RESULTS

[REDACTED] County was able to utilize Securus' Location Based Service to assist with the search. They were able to enter the senior citizen's cell phone number into LBS which allowed them to identify his location in real time and track his movement as he was heading down the interstate in his car.

With this information the [REDACTED] was able to locate him just south of [REDACTED] on [REDACTED]. With the flood of information law enforcement received, the officers in the target area had confidence that the alert was relative to them and reliable.

"The system enabled us to locate him in around 30 minutes. He was well outside our jurisdiction and mapping features were sent direct to law enforcement officers on the street in the target area. Another successful locate of missing elderly man using Securus" said [REDACTED]

# LBS SUCCESS STORIES

FACILITY: [REDACTED]

## SITUATION

The [REDACTED] utilizes Securus Technologies, Inc. Location Based Services (LBS) to help solve active criminal investigations. This investigative tool has proven to be invaluable to us and surrounding counties. Our investigators have used LBS and the On-Demand Services to track down suspects multiple times.

## RESULTS

With Location Based Services, not only do you have the ability to create Geo-fences and utilize On Demand Services, but you also have the ability to conduct general or specific CDR searches and receive Geo locations on calls made to mobile devices.

The LBS tool is very easy to use. As per [REDACTED], "We can put a Geo-fence around specific areas of interest and then capture all inmate calls to cell phones within that area. If we are looking for a specific person all we have to do is upload our warrants into the On-Demand tool and then we are able to ping that persons cell phone to triangulate approximate location in real time. We are also able to use this for Amber Alerts as well as Silver Alerts."

"The [REDACTED] is pleased with Securus' LBS investigative tool and we appreciate the team at Securus who support us every day", said [REDACTED].

# LBS SUCCESS STORIES

FACILITY: [REDACTED]

## SITUATION

An inmate at the [REDACTED] Corrections Center who was a known runner for the Hell's Angel Motorcycle Gang led authorities to suspect that he was an escape risk.

## RESULTS

[REDACTED] listened to this inmate's calls and heard conversations with his girlfriend. They spoke of her going to the West Coast to get drugs and money, so she could bond him out.

[REDACTED] used Location Based Services to validate the location and actions of the girlfriend and will attempt to apprehend her once she attempts to bring back either drugs, money or both.

# LBS SUCCESS STORIES

## FACILITY:



## SITUATION:

■■■■■■■■■■ authorities received a call reporting the abduction of a three-year-old. Friends and family feared the child was in grave danger.

## RESULTS

■■■■■■■■■■ officers immediately used Location Based Services (LBS) to locate the suspect phone in real time. This allowed authorities to locate the child quickly and with fewer resources. Short turnaround was a key assistance in apprehending the suspect as well as recovering the child unharmed.

“The LBS tool is an invaluable resource for the ■■■■■■■■■■ authorities”, said ■■■■■■■■■■

# LBS SUCCESS STORIES

FACILITY: [REDACTED]

## SITUATION

[REDACTED] wanted to proactively increase security when bringing inmates to work release locations.

## RESULTS

[REDACTED] staff set up a LBS Geo Fence with a covert alert around the work release location. Jail staff notified when an inmate placed a call in the Geo Fence and attempted to coordinate an escape.

LBS data prevented the escape even before it was attempted. The inmate was subsequently questioned by [REDACTED] jail staff and disciplined accordingly without incident.

“The [REDACTED] is pleased with Securus’ LBS investigative tool and we appreciate the team at Securus who support us every day”, said [REDACTED]



## IN CONCLUSION

Securus' Location Based Services provides the value that facilities have come to expect when it comes to preparation and safety. By following CTIA industry best practices and providing location acquisition capability, facilities easily understand the benefits that Securus' LBS service has to offer. Whether a customer is supporting a neighboring facility, aiding local law enforcement or even searching for an abducted child, LBS provides the appropriate methodology to legally provide location information when necessary. LBS is the tool that facilities need to be able to respond to emergency situations and maintain a level of safety for facility inmates and staff.

**SECURUS**  
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*connecting what matters<sup>®</sup>*

[WWW.SECURUSTECHNOLOGIES.COM](http://WWW.SECURUSTECHNOLOGIES.COM)

**DECLARATION OF DENNIS J. REINHOLD**

I, Dennis J. Reinhold, hereby declare under penalty of perjury as follows:

1. I am the Senior Vice President and General Counsel of Securus Technologies, Inc.;
2. I have read the attached Opposition to the Petition to Deny By The Wright Petitioners; Citizens United For Rehabilitation Of Errants; Prison Policy Initiative; Human Rights Defense Center; The Center For Media Justice; Working Narratives; United Church Of Christ, OC Inc.; And Public Knowledge, which was prepared pursuant to my supervision and control;
3. This Declaration is submitted in support of the foregoing Opposition; and
4. The allegations of fact contained in the Opposition are true and correct to the best of my knowledge and belief.

Dated: July 23, 2018

  
\_\_\_\_\_  
Dennis J. Reinhold

**CERTIFICATE OF SERVICE**

I, Peter M. Bean, certify on this 23rd day of July, 2018, a copy of the foregoing “**Opposition to the Petition To Deny By The Wright Petitioners, Citizens United For Rehabilitation Of Errants, Prison Policy Initiative, Human Rights Defense Center, The Center For Media Justice, Working Narratives, United Church of Christ, OC Inc., and Public Knowledge**” has been served via First Class Mail and/or via Electronic Mail (as indicated below) to the following:

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